



**Dhir
& Dhir**
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YEARS

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INVOCATION OF PERSONAL GUARANTEES: WHEN DOES THE LIABILITY OF A PERSONAL GUARANTOR TRULY ARISE?

In the regime of insolvency and bankruptcy law in India, the question of when and how the liabilities of Personal Guarantors crystallize has become increasingly significant. Recent judgments by the National Company Law Appellate Tribunal (“NCLAT”) in **Shantanu Jagdish Prakash v. State Bank of India & Ors. (Company Appeal (AT)(Ins.) 1609 of 2024)**, **Mavjibhai Nagarbhai Patel v. State Bank of India & Anr. (Company Appeal (AT) (Ins.) Nos. 1702, 1711 & 1712 of 2024)**, **Asha Basantilal Surana v. State Bank of India & Ors. (Company Appeal (AT) (Ins.) No. 84 of 2025)**, and **Pooja Ramesh Singh v. State Bank of India (Company Appeal (AT) (Ins.) No. 329 of 2023)**, have brought greater clarity to the legal framework governing the invocation of personal guarantees and determining when such liability truly arises. This article examines these developments, highlighting the principle of co-extensive liability of the Principal Borrower and the Guarantor under Section 128 of the Indian Contract Act, 1872, and explaining how Demand Notices serve as the critical trigger for the enforcement of a Guarantor’s liability.

CO-EXTENSIVE LIABILITY UNDER SECTION 128 OF THE INDIAN CONTRACT ACT

Section 128 of the Indian Contract Act, 1872, lays down that “the liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.” This means that the Guarantor’s obligation to repay the debt arises alongside that of the Principal Borrower, unless the contract provides otherwise. However, the Hon’ble NCLAT clarified in these judgments that although the liability of the Principal Borrower and the Personal Guarantor is co-extensive, the point at which such liability becomes enforceable depends on the terms of the Deed of Guarantee. In practice, although the Guarantor’s liability corresponds to that of the Principal Borrower, it becomes actionable only when the creditor formally invokes the Guarantee by issuing a Demand Notice in accordance with the Deed of Guarantee.

INVOCATION OF GUARANTEE IS NECESSARY, AND DEMAND NOTICE ISSUED IN TERMS OF SECTION 94(4)(B) OF THE IBC CANNOT BE TREATED AS AN INVOCATION OF GUARANTEE

The Hon'ble NCLAT in **Deepak Kumar Singhania (Supra)** held that invocation of the Guarantee is a mandatory pre-requisite for initiating insolvency proceedings under Section 95 of the Insolvency and Bankruptcy Code, 2016 ("IBC"). The Hon'ble Tribunal in the captioned judgment further clarified that a demand notice issued under Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019, does not constitute invocation of the Guarantee. Therefore, the invocation of Guarantee of the Personal Guarantee is required to trigger the Guarantor's liability and that without prior invocation, no default exists on part of the Guarantors/Personal Guarantors.

DEMAND NOTICE ISSUED UNDER SECTION 13(2) OF THE SARFAESI ACT TANTAMOUNT TO INVOCATION OF GUARANTEE

The Hon'ble NCLAT has now settled the legal proposition as to whether a notice issued under Section 13(2) of the SARFAESI Act can constitute the invocation of a personal guarantee. In the matter of Shantanu Jagdish Prasad (Supra), the Hon'ble NCLAT upheld the maintainability of the Section 95 petition which was filed on the basis of the Demand Notice issued under Section 13(2) of the SARFAESI Act, which was addressed to the Corporate Debtor, including that to the Personal Guarantors. The Hon'ble NCLAT in the captioned matter held that the notice, by specifically referring to the Personal Guarantor and calling upon the Guarantor to discharge the borrower's liability, satisfied the condition required under the Deed of Guarantee and therefore constitutes a valid invocation of the Guarantee. The Hon'ble Tribunal further emphasized that substance must prevail over form; what matters is whether the notice clearly communicates to the Guarantor the demand to pay under the Guarantee, thereby crystallizing the Guarantor's liability.

Thereafter, the Hon'ble NCLAT in the matter of Mavjibhai Nagarbhai Patel (Supra) held that the liability of a personal guarantor stands crystallized upon issuance of a demand notice under Section 13(2) of the SARFAESI Act, wherein the creditor specifically calls upon the personal guarantor to make payment in accordance with the terms of the deed of guarantee. The Hon'ble Tribunal further observed that the specific mention of the guarantor's name and the categorical demand for repayment in such a notice satisfies the contractual requirement of invocation of the guarantee, thereby making a petition under Section 95 of the IBC maintainable.

Similarly, the Hon'ble NCLAT in the matter of Asha Basantilal Surana (Supra), relying on its earlier judgment in the matter of Mavjibhai Nagarbhai Patel (Supra), reiterated that the issuance of Demand Notice under Section 13(2) of the SARFAESI Act to the Guarantor, specifically demanding payment, operates as an invocation of Personal Guarantee and triggers the Guarantor's liability in terms of the provision enshrined under IBC.

WAY FORWARD

The recent pronouncements by the Hon'ble NCLAT have significantly clarified the legal contours surrounding the invocation of Personal Guarantees, particularly in the context of Demand Notices issued under Section 13(2) of the SARFAESI Act and proceedings of Personal Guarantors under the provisions of IBC. However, given the evolving jurisprudence in the said area, it is imperative for creditors or legal practitioners to exercise heightened diligence.

Creditors should ensure that invocation notices are carefully drafted to explicitly address the Guarantors, clearly demanding payment in accordance with the terms of the Deed of Guarantee. This will mitigate the risk of procedural challenges and ensure that the proceedings under Section 95 of the IBC are not held non-maintainable on mere grounds of defective invocation or non-invocation of Personal Guarantee.

CONCLUSION

The liability of the Personal Guarantor, though co-extensive with that of the Principal Borrower, becomes actionable only upon proper invocation of the Guarantee in accordance with the terms of the Deed of Guarantee. The recent judgments of the Hon'ble NCLAT have clarified that while a Demand Notice issued in terms of Section 95(4)(b) read with Rule 7(1) of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtor) Rules, 2019 is insufficient, a formal Demand Notice is to be issued to the Personal Guarantor to invoke its Guarantee and the date on which said Notice shall be considered as the date of default for the said Personal Guarantor. The Hon'ble NCLAT further clarified that a Demand Notice issued under Section 13(2) of the SARFAESI Act, when specifically addressed to the Guarantor and demanding payment under the Deed of Guarantee constitutes a valid invocation. This crystallizes the Guarantor's liability. These developments highlight that it is the substance and intent of the notice rather than its form alone that ultimately determines its legal effect.

The article has been published on [Mondaq](#) & [Lexology](#).

RESERVE BANK OF INDIA (PROJECT FINANCE) DIRECTIONS, 2025



On June 19, 2025, the Reserve Bank of India issued a comprehensive framework as “**RESERVE BANK OF INDIA (PROJECT FINANCE) DIRECTIONS, 2025**” (“**Directions**”) for financing the projects in infrastructure and non-infrastructure (including commercial real estate & commercial real estate residential housing) sectors by Regulated Entities (“REs”). These Directions shall become effective on and from October 01, 2025 (“Effective Date”).

NEED FOR DIRECTIONS

- The project loans play a pivotal role in shaping India’s infrastructure growth; however, certain external factors like delay in achieving commercial operation date, land acquisition issue or regulatory compliance challenges, may jeopardize the project timelines, despite the borrower’s best efforts.
- In addition to the above, the panoramic framework of Prudential Framework for Resolution of Stressed Assets issued on June 7, 2019 (“**Prudential Framework**”), excluded the restructuring of loans provided for projects under implementation on account of change in date of commencement of commercial operations (COD), from its ambit.

Therefore, it had become necessary to have a regulatory structure for early recognition of risk and resolution of stress in project finance exposures....

Read More on [Mondaq](#) & [Lexology](#)

KEY UPDATES

Dhir & Dhir Associates is pleased to announce the Executive Development Programme (EDP) in collaboration with School of Law - Dhirubhai Ambani University, Axis Max Life Insurance Limited, and Varaha - India's first interdisciplinary programme integrating ESG, carbon markets, and sustainable finance under one comprehensive curriculum. This programme offers:

1. Practical insights into ESG law, climate finance, and carbon markets
2. Case studies, policy simulations, and legal drafting labs
3. Networking with sustainability leaders and industry experts.

OUR FACULTY EXPERTS



Prof. (Dr.) Avinash Dadhich
Founding Director
Dhirubhai Ambani University -
School of Law



Dr. Manoj Bhardwaj
Founding Faculty Member &
Vertical Head - ESG, Carbon
Markets & Sustainability
Dhirubhai Ambani University -
School of Law



Mr. Amber Gupta
Honorary Professor,
Dhirubhai Ambani University -
School of Law, Senior Vice
President and Head of Legal,
National Stock Exchange of
India Limited.



Dr. Shashi Singh
Professor of Practice,
Dhirubhai Ambani University -
School of Law, Research Fellow,
Department of Geography,
University of Cambridge



Mr. Ashish Srivastava
Non-Resident Professor of
Practice, Dhirubhai Ambani
University - School of Law,
Associate Director, CSR,
ET Foundation



Ms. Keerthana Medarametta
Non-Resident Fellow
Dhirubhai Ambani University -
School of Law
Senior Counsel, Agrius



Mr. Sonal Verma
Partner, ESG and Label Leader
Markets and Strategy,
Eco & WFL Associates



Mr. Dhyaneshwar Gupta
Head of Finance,
Legal and Compliance,
Kauchoo



Mr. Vatsalya Chaturvedi
Chief Growth Officer,
West Street India Financial
Consultancy Pvt. Ltd.



Ms. Guly Sabahi
Senior Advisor, Climate Finance
NDC Pathways, Operated by
UNICEF, UNDP & WFP



Mr. William J. Snape III
Director of Program on
Environmental and Energy Law
Professor, American University
Washington College of Law



Ms. Vidhi Thakral
Chief Manager, ESG,
Axis Max Life Insurance
Limited



Ms. Kater Lazarus
Senior ESG, Advisory Regional
Lead, International Finance
Cooperation, World Bank Group



Mr. Heather Hughes
Professor and Dean
American University
Washington College of Law

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EXECUTIVE DEVELOPMENT PROGRAMME (EDP) IN ESG,
CARBON MARKETS & SUSTAINABILITY

Dhir & Dhir Associates entered into a Memorandum of Understanding (MoU) with BITS Law School, Mumbai – a premier institution dedicated to shaping the next generation of legal professionals.

This collaboration paved the way for enriching opportunities, including internships, guest lectures, mentorship programs, and curriculum development. It also laid the foundation for joint initiatives such as conferences, moot courts, and various academic-industry engagements.



The MoU was formally signed by Prof. Dr. Ashish Bharadwaj, Dean, BITS Law School, and Dr. Sonal Verma, LL.M (UK), Ph.D. (Law), Partner, Dhir & Dhir Associates.



THE PODIUM

Dr. Sonal Verma, LL.M (UK), Ph.D (Law), Partner represented the firm & spoke at the 12th Annual Grand Masters 2026 Series - Bengaluru Edition, held on 27th February 2026 at the prestigious Shangri-La Hotel, Bengaluru. He spoke on the topic of “THE STRATEGIC GC - BOARDROOM RISK & LEADERSHIP”



Mr. Guranpreet Singh Sarna Partner (Corporate), shared his ideas on the theme of India “Inc. 2.0 - The Great Indian Regulatory Drive: Real Estate & Infrastructure Focus” during The Grand Masters 2025 - Hyderabad Edition, held on 25th July 2025 at The Novotel & HICC Complex, HITEC City.



Dr. Sonal Verma, LL.M (UK), PhD (Law), Partner – ESG, shared her perspectives during the session “Streaming the Rulebook & Rewriting OTT + Broadcast Norms” at the 10th Annual Media, Advertising & Entertainment Legal Summit 2025 and the 11th Annual Pharma Legal & Compliance Summit 2025, held on 25–26 September 2025 at the Taj Santacruz in Mumbai.



Mr. Guranpreet Singh Sarna Partner (Corporate), participated as a speaker & gave his contributions to the topic “Regulate to Accelerate: The Balancing Act of Growth & Oversight” at the 8th Annual Banking & Finance Legal Summit 2025, held on 21st November 2025 at Taj Santacruz, Mumbai.



Indian Institute of Management Rohtak hosted a guest lecture on “ESG Compliance and Corporate Adaptation: Evolving Practices and Emerging Skillsets” on 12 December, 2025. The session was led by Dr. Sonal Verma, Partner and Global Leader, at Dhir & Dhir Associates, with Mr. Abhijeet Kashyap, Associate, joining the discussion.



Dr. Sonal Verma, LL.M (UK), PhD (Law), Partner – ESG, moderated Session 1 at the IndusAcX Summit 2025: The Industry-Academia Exchange, hosted by the School of Law at Dhirubhai Ambani University.



IndusAcX Summit 2025
11:00 AM | 20th Dec 2025
Dhirubhai Ambani University, Gandhinagar, Gujarat

ESG, Carbon Markets and Sustainability Vertical

Plenary Session 1
**Policy Signals, Market Mechanisms and Corporate Strategy
Driving Decarbonization in a Low-Carbon Economy**

MODERATOR


Dr. Sonal Verma
Partner, ESG and Global Leader
(Markets and Strategy)
Dhir & Dhir Associates

EXPERT PANELISTS

 Mr. Madhur Jain Co-Founder & CEO Varaha	 Mr. Anurag Chauhan General Counsel, Company Secretary and Head - ESG Axis Max Life Insurance
 Mr. Tarun Ahuja Vice President - ESG, Finance & Risk Change Management HSBC	 Mr. Ashish Srivastava Vice President & Zonal Head - CSR (North & East) HDFC Bank

The **School of Agriculture, Law and Economics (SALE)** at **Rajiv Gandhi National University of Law (RGNUL), Punjab**, in collaboration with **Dhir & Dhir Associates**, successfully organized the **final rounds of the 5th National Essay Writing Competition** on **11 March 2026** at the RGNUL campus. The competition was centered on the theme **“Regulating the New Economy: Challenges in the Age of Technology and Sustainability.”** The final round was conducted in the form of a **symposium-cum-paper presentation**, bringing together young scholars from across the country to deliberate on pressing issues at the intersection of technology, sustainability, and economic regulation. The event was attended by our Partner. The event was further graced by distinguished representatives from Dhir & Dhir Associates, including Dr. Sonal Verma, Partner (ESG Team), Ms. Meghna Talwar, Partner (Disputes Team), Ms. Anshita, Senior Associate (ESG Team), and Mr. Abhijit Kashyap, Associate.



AWARDS & ACCOLADES

Ms. Maneesh Dhir, our founder & managing partner received an award for Dhir & Dhir Associates as the firm was honoured as the **“Law Firm of the Year”** at the prestigious Gavel Glory Awards 2025, hosted during the Law Conclave 2025, organized by Parul University, held at The Leela Palace, New Delhi..



Our Founder & Managing Partner, Ms. Maneesha Dhir, was honoured with the **“Lawyer of the Year”** at the prestigious Gavel Glory Awards 2025, hosted during the Law Conclave 2025, organized by Parul University, held at The Leela Palace, New Delhi.





Our Founder & Managing Partner, Mr. Alok Dhir, was honoured with the Visionary Leader of the Year Award for Leadership Excellence at the Bharat Tech Summit & Awards 2025, hosted by globaltechpolicy.org on 8th November 2025 in New Delhi.

This award recognizes his forward-looking leadership, his contribution to the evolution of India's restructuring and insolvency landscape, and his continued commitment to strengthening the interface between law, finance, and innovation.



Dhir & Dhir Associates was honoured with the ISSM (International Institute of Security & Safety Management) Excellence Award 2025 in the category of Disaster Management & Climate Change at the 35th Annual Global Conclave 2025. Dr. Sonal Verma LL.M (UK), PhD (Law), Partner - ESG received the award along with the Mumbai office team received the award.



Powering India's Green Future: Pioneering Energy Efficiency & Decarbonization (Podcast)



Sonal Verma
Partner - ESG



Critical Analysis Of The Proposed Digital Personal Data Protection (DPDP) Rule 2025 Regime In India



Sonal Verma
Partner - ESG



Abhijeet Kashyap
Associate



Powering India's Green Future: Pioneering Energy Efficiency & Decarbonization (Podcast)



Sonal Verma
Partner - ESG

THE FIRM IN NEWS

Our Partner, Ms. Varsha Banerjee was quoted in the Article titled **“Personal Guarantors assets under threat under proposed IBC Changes”** in the **“Online & Print Versions.”**



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RANKINGS



ALOK DHIR
Founder & Managing Partner
Restructuring and Insolvency
Elite Practitioner



ELITE PRACTITIONER

2025



MANEESHA DHIR
Founder & Managing Partner
Dispute Resolution
Distinguished Practitioner



DISTINGUISHED PRACTITIONER

2025



SACHIN GUPTA
Senior Partner
Restructuring and Insolvency
Distinguished Practitioner



DISTINGUISHED PRACTITIONER

2025



VARSHA BANERJEE
Partner
Restructuring and Insolvency
Notable Practitioner



NOTABLE PRACTITIONER

2025



Infrastructure



HIGHLY RECOMMENDED FIRM

2025



Construction



NOTABLE FIRM

2025



asiatlaw

TOP TIER FIRM

2025

- Banking
- Restructuring & Insolvency
- Private Equity



asiatlaw

RECOMMENDED FIRM

2025

- Energy
- Real Estate
- Regulatory
- Dispute Resolution



asiatlaw

RECOGNISED FIRM

2025

- Banking & Financial Services
- Technology & Telecommunications
- Capital Markets





India City Focus:
NCR:
Banking & Finance: Tier 1



Alok Dhir
Founder & Managing Partner



Restructuring & Insolvency



Guranpreet Singh Sarna
Partner



India: Real Estate
and Construction



Shikha Singh
Associate Partner



India: Banking Finance



Avlokita Kanwar
Principal Associate



India City Focus
Mumbai & NCR:
Banking Finance



- Banking and Finance
- Projects and Energy
- Real Estate and Construction
- Restructuring and Insolvency
- Dispute Resolution: Litigation
- Corporate and M&A
- TMT



India City Focus:
Mumbai:
Banking Finance






Maneesha Dhir
Managing Partner

IFLR1000

Banking, Technology & Telecommunications

IFLR1000 WOMEN LEADERS



2025 IFLR1000 HIGHLY REGARDED LAWYER

Restructuring & Insolvency, M&A




Alok Dhir
Founder & Managing Partner

IFLR1000

2025 IFLR1000 HIGHLY REGARDED LAWYER

Restructuring & Insolvency




Sachin Gupta
Senior Partner

IFLR1000

2025 IFLR1000 HIGHLY REGARDED LAWYER

Restructuring & Insolvency




Varsha Banerjee
Partner

IFLR1000

2025 IFLR1000 NOTABLE PRACTITIONER

Restructuring & Insolvency




Shikha Singh
Associate Partner

IFLR1000

2025 IFLR1000 RISING STAR PARTNER

Project Development, Project Finance




Guranpreet Singh Sama
Partner

IFLR1000

2025 IFLR1000 RISING STAR PARTNER

Project Development, Project Finance



Banking
Capital Markets: Equity
Project Development: Energy & Infrastructure
Project Development: Transport
Restructuring & Insolvency
Project Finance
Project Development: Telecommunications Networks
Private Equity
Real Estate & Construction








ALOK DHIR
 Founder & Managing Partner
 Dhir & Dhir Associates

Restructuring/Insolvency




Alok Dhir
 Founder & Managing Partner



Arbitration & ADR, Litigation,
 Project Finance, Restructuring & Insolvency




Maneesha Dhir
 Founder & Managing Partner



Bankruptcy & Insolvency, Mergers &
 Acquisitions, Restructuring & Insolvency,
 Technology, Media and Telecommunications




Sachin Gupta
 Senior Partner



Arbitration & ADR, Bankruptcy & Insolvency,
 Restructuring & Insolvency, White-Collar Crime

NOTABLE DEALS



DEALS & MORE

Dhir & Dhir Associates advised Khandwala Securities Limited on the filing of Draft Prospectus of Wagons Learning Limited on BSE-SME

The Firm acted as legal advisor to the Lead Manager, Khandwala Securities Limited, in connection with the proposed Initial Public Offering (IPO) of Wagons Learning Limited on the SME Platform of BSE, involving an offering of 46,00,000 Equity Shares. The Firm's Capital Markets team played an instrumental role in drafting and filing the Draft Prospectus with the stock exchange, enabling a seamless execution of the transaction.

Team comprised of Mr. Guranpreet Singh Sarna, Ms. Harshita Asopa and Mr. Suyash Shrivastava.

ADVISED BY



Guranpreet Singh Sarna
Partner



Harshita Asopa
Senior Associate



Suyash Shrivastava
Associate



DEALS & MORE

Dhir & Dhir Associates advised Power Finance Corporation Limited on ₹947.20 Million Financing to FPEL Daylight Private Limited for 30 MWp Solar PV Project in Tamil Nadu

The Firm has advised Power Finance Corporation Limited for financial assistance of INR 947.20 Million granted to FPEL Daylight Private Limited for the purposes of financing a 20 MW AC/ 30 MWp solar PV project at Ottapidaram, District Thoothukudi, Tamil Nadu.

ADVISED BY



Guranpreet Singh Sarna
Partner



Avlokita Kanwar
Principal Associate



Kavya Jindal
Associate

NOTABLE DEALS



DEALS & MORE

Dhir & Dhir Associates advised Kotak Infrastructure Debt Fund on ₹2,397.20 Million Financial Assistance to Ampln Group SPVs

The Firm has advised Kotak Infrastructure Debt Fund Limited for financial assistance aggregating to INR 2397.20 Million granted to a group of 7 SPVs of Ampln Group for the repayment of existing loans, refinance of unsecured loans towards the project aggregating to capacity of 97.21 MW DC situated in various states of India.



DEALS & MORE

Dhir & Dhir Associates Advise Tata Capital on ₹1190 Crore Financing for AMPIN Energy's Wind-Solar Hybrid Power Project

Dhir & Dhir Associates advised TATA Capital Limited for financial assistance of INR 1190 Crores granted to AMPIN Energy Utility One Private Limited for its wind solar hybrid power project with 244 MWp capacity in Karnataka. The transaction was led by Mr. Guranpreet Singh Sarna (Partner) and Ms. Shikha Singh (Associate Partner) with support of Ms. Avlokita Kanwar (Principal Associate) and Ms. Diya Malik (Associate).

ADVISED BY



Guranpreet Singh Sarna
Partner



Shikha Singh
Associate Partner



Avlokita Kanwar
Principal Associate



Kavya Jindal
Associate

ADVISED BY



Guranpreet Singh Sarna
Partner



Shikha Singh
Associate Partner



Avlokita Kanwar
Principal Associate



Diya Malik
Associate

Read more about the deal on [Bar & Bench](#)

Read more about the deal on [Bar & Bench](#)



Dhir & Dhir Associates is a leading full-service law firm in India serving as a single-window legal and regulatory advisor globally. It has offices in New Delhi and Mumbai. The firm's areas of practice include Restructuring and Insolvency, Corporate/Commercial Advisory and M&A, Real Estate, Banking and Finance, Dispute Resolution, AI and Tech Governance, Capital Markets, Infrastructure & Energy, Environmental, Social & Governance, IPR, Technology, Media & Telecommunications, Employment Law and Consumer Law.

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